

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL



In the Matter of:)	Docket HWCA 97/98-2016
)	
San Francisco State University)	CONSENT ORDER
1600 Holloway Avenue)	
San Francisco, CA 94132)	Health and Safety Code
EPA ID. NO.: CAD982011629)	Section 25187
)	
Respondent.)	

The State Department of Toxic Substances Control
(Department) and San Francisco State University (Respondent)
enter into this Consent Order and agree as follows:

1. Respondent generates, handles, treats, and stores,
hazardous waste at San Francisco State University, 1600 Holloway
Avenue, San Francisco (Site).

2. The Department inspected the Site on October 2,
1997.

3. The Department alleges the following violations:

3.1. The Respondent violated Health and Safety Code
(HSC) section 25189.2(c) in that on or about July 18, 1997, the
Biology Department at San Francisco State University (SFSU),
Hensill Hall (Respondent), had disposed into the sink/drain, an
unauthorized point for disposal of hazardous wastes, 30% ethanol
waste and bleach, both of which are hazardous wastes.

3.2. The Respondent violated HSC section 25201(a) in
that SFSU had been storing hazardous waste without a permit to
wit:

a) On or about July 18, 1997, in Room 651 satellite accumulation area, Hensill Hall, containers of acrylonitrile and phenol/chloroform wastes had accumulation dates of "02/15/96" and "11/15/95", respectively.

b) On or about October 2, 1997, in the Hazardous Waste Storage Shed, a 90-day accumulation area, two small bottles (approx. 12 oz) of picric acid labeled, "explosive when dry," had accumulation dates of 07/03/96;

c) On or about October 2, 1997, in the Hazardous Waste Storage Shed, a 90-day accumulation area, two canisters (approx. 6" x 3" diam.) of sodium borohydride labeled, "flammable" had accumulation dates of 10/05/96.

3.3. The Respondent violated title 22, Cal. Code Regs. Section 66265.177(c) in that, containers of hazardous waste incompatible with wastes stored nearby were not separated by means of a berm, wall, containment, or other device, to wit:

a) On or about October 2, 1997, in the Hazardous Waste Storage Shed, Oxidizer Area, the following wastes were all in one containment shelf: two bottles (approx. 12 oz.) of picric acid waste, labeled "explosive when dry"; two metal canisters (approx. 6" long x 3" diam.) of sodium borohydride labeled, "flammable"; a liter (approximate) container marked "mercuric nitrate," an oxidizer and other small containers with accumulation tags wrapped around them that were not checked for safety reasons. The accidental mixing of an explosive, a flammable, and an oxidizer, which are incompatible could result in explosion, and/or fire.

b) On or about October 2, 1997, in the Hazardous Waste Storage Shed, a shelf on the north wall contained incompatible waste acids and bases in the same area, in one-gallon containers labeled as follows: "NaOH, methylene blue, accumulation date -09/17/97", a corrosive base, hazardous property not indicated; two containers of "2-propanol, butanol, ethylene glycol (liquid)," hazardous property not indicated, accumulation dates- 09/01/97 and 09/24/97; "NaOH, NH₄OH with butanol, accumulation date-08-28-97," corrosive base; three containers of "water, ethanol, ethyl acetate, HCl, accumulation dates-09/23/97," corrosive acids; two other containers of corrosive acid waste. Accidental mixing of acids and bases could result in heat generation, as such they are incompatible.

c) On or about October 2, 1997, in the Hazardous Waste Shed, Inorganics Shelf, a one-gallon container of magnesium turnings, a reactive waste, was stored next to a container of zinc nitrate, an oxidizer and a material labeled, "unknown." Accidental mixing of a reactive and an oxidizer could result in heat generation, fire, and explosion.

d) On or about October 2, 1997, in the Undergraduate Chemistry Stock Room, a 500-gram container labeled with a hazard notation, "KClO₃, explosive if mixed with organic material" was stored next to a one-gallon container (1/4 full) of organic material, labeled "ethylene glycol/ethanol."

e) On or about October 2, 1997, in the Undergraduate Chemistry Stock Room, three 1-gallon containers of acid wastes

and two 1-gallon containers of caustic wastes (bases), were stored side by side.

3.4. The Respondent violated title 22, Cal. Code Regs. Section 66265.35 in that on or about October 2, 1997, aisle space was not maintained in the Hazardous Waste Storage Shed, to allow the unobstructed movement of personnel, and equipment in an emergency, to wit: the aisle space between the lab packs and the containers and/or shelves was approximately 12-14 inches; the area in the northeast corner of the shed was completely blocked with containers of wastes.

3.5. The Respondent violated title 22, Cal. Code Regs. Section 66262.34(f)(1), (2) and (3) in that, on or about October 2, 1997, containers of hazardous wastes were not labeled with the required date of accumulation, physical state, hazardous property and generator of the waste, to wit:

a) In the Hazardous Waste Storage Shed, thirteen lab packed drums of hazardous wastes;

In the Upper Chemistry Division, Stock Room, approximately 7-10 small bottles/containers of wastes on a tray were unlabeled. A piece of cardboard marked "waste" was placed next to the containers.

3.6. The Respondent violated title 22, Cal. Code Regs. section 66262.11 in that, on or about October 2, 1997, a hazardous waste determination was not conducted by the generating lab prior to transfer of the waste into the Hazardous Waste Shed, to wit:

a) a 500-gram container of white powder had a tag labeled, "unknown";

b) another unknown waste with a hazardous waste accumulation tag was labeled, "solid" from Science Building; the waste was next to a container marked "HF."

3.7. The Respondent violated title 22, Cal. Code Regs. Section 66265.31 in that on or about October 2, 1997, facility failed to maintain and operate the hazardous waste storage shed to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or water which could threaten human health or the environment, to wit:

a) In addition to the storage of incompatibles and the lack of aisle spaces in the Hazardous Waste Storage Shed, as described in violations above, the containers of hazardous waste were stored on the shelves without any device or guard that would prevent them from breaking, clashing or falling off the shelves, in case of an earthquake.

3.8. The Respondent violated title 22, Cal. Code Regs. section 66262.34(e)(1)(C) and (f)(3), and 66265.171(a) in that, on or about October 2, 1997 in the Engineering Stock Room, a beaker containing mercury waste placed on top of "flammable liquid storage cabinet," was open and unlabeled.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code (HSC) section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent does not admit the allegations made in the Enforcement Order, except as follows: Respondent admits the facts alleged in the Enforcement Order for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within five years of the date the violations alleged in the Enforcement Order occurred.

SCHEDULE FOR COMPLIANCE

10. Within thirty (30) days of the effective date of this Order, Respondent shall demonstrate to the Department that one employee has attended and successfully completed a compliance instruction program. Respondent has returned to compliance for all other matters addressed in the alleged violations.

PENALTIES AND OFFSETS

11. The penalty in this case is \$73,000. Payment of this penalty to the Department shall be offset by environmental credits based upon Respondent's obligation to undertake environmental enhancement projects above and beyond Respondent's

commitment to comply with applicable environmental laws and regulations.

The Department has incurred costs of \$10,422.94.

Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$10,422.94, in reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
400 P Street, 4th Floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Mr. Paul S. Kewin
Supervising Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
10151 Croydon Way, Suite 3
Sacramento, California 95827-2106

To: Mr. Robert Olken, Staff Attorney
Office of Legal Counsel
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to HSC § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

11.1 Environmental Credits

The environmental credits shall be conditioned upon the completion of construction of the hazardous materials storage shed, proposed in the memorandum of May 24, 2000, attached as

Exhibit 1, within one year of the effective date of this Order. Total cost of implementing environmental credits shall not be less than \$73,000. Respondent shall submit to the Department detailed plans for review and approval prior to commencement of construction of the shed.

11.2 Quarterly Status Reports

Within ninety (90) days of the effective date of this Order, and at three month intervals thereafter, Respondent shall provide to the Department a Report which details the progress of the approved project. This report shall also contain information about project schedules, any difficulties with the project, any actions undertaken to resolved project difficulties, and actions undertaken to accelerate the project or return it to schedule. The report will contain a list of planned work for the next three months. Respondent's obligation to provide quarterly reports shall cease upon completion of the project and approval by the Department.

11.3 Completion Report

At the completion of the project, Respondent shall provide to the Department a report specifying the work done, documentation of its completion, including but not limited to photographs and inspection records, and an accounting of costs demonstrating compliance with Paragraph 11.1. Obligations under this section shall cease upon written approval of the completion report by the Department. The completion report shall be submitted no later than sixty (60) days from the completion of construction, as specified in paragraph 11.1.

11.4 Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Mr. Paul S. Kewin
Supervising Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
10151 Croydon Way, Suite 3
Sacramento, California 95827-2106

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law. Failure to complete the environmental credits project and submit the completion report by the dates specified in paragraph 11 shall render the penalty of paragraph 11.1 due and payable immediately.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have

responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements:
Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

Dated: December 18, 2000

Original signed by Don W. Scoble
Don W. Scoble
Vice President for Business
and Finance

Dated: January 10, 2001

Original signed by Charlene Williams
Charlene Williams, Chief
Statewide Compliance Division
Northern California Branch
Department of Toxic Substances
Control